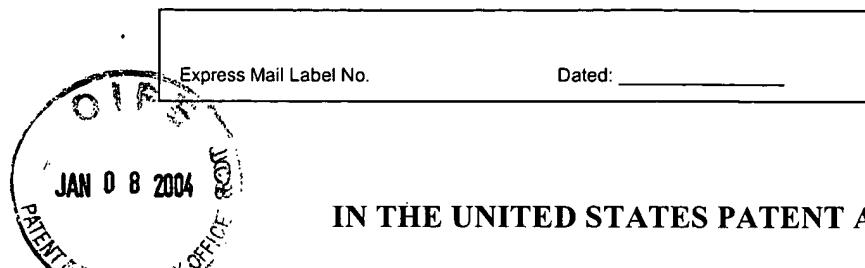


01-12-04



Docket No.: 02521/100K106-US1  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Fred Mermelstein, et al.

Application No.: 10/729,869

Confirmation No.:

Filed: December 5, 2003

Art Unit: N/A

For: **NMDA RECEPTOR ANTAGONIST  
FORMULATION WITH REDUCED  
NEUROTOXICITY**

Examiner: Not Yet Assigned

**INFORMATION DISCLOSURE STATEMENT (IDS)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In compliance with the duty of disclosure under 37 CFR §§ 1.56 and 1.97, attached hereto is a copy of the Form PTO/SB/08. The copies<sup>1</sup> of the documents listed thereon have been made of record in parent application Serial No. 10/256,283 filed September 25, 2002. These documents contain information which the Examiner may consider to be important in deciding whether to allow the present application to issue as a patent.

In accordance with MPEP Sections 609 and 707.05(b) it is requested that each document cited (including any cited in applicants' specification which is not repeated on the attached Form PTO/SB/08) be given thorough consideration and that it be cited of record in the prosecution history of the present application by initialing on Form PTO/SB/08, so that it will appear on the face of the patent issuing on the present application, even if the Examiner does not consider it sufficiently

<sup>1</sup> Copies of the cited references were submitted in parent application Serial No. 10/256,283 and are not submitted here pursuant to 37 CFR §1.98.

pertinent to use in a rejection, or otherwise does not consider it to be prior art for any reason, or even if the Examiner does not believe that the guidelines for citation have been fully complied with.

The present Disclosure Statement is also being submitted in compliance with 37 CFR § 1.56 as an Examiner might consider any cited document important in deciding whether to allow the application to issue as a patent, but the citation of each document is not to be construed as an admission that such document is necessarily relevant or prior art. No representation is intended that the cited documents represent the results of a complete search, and it is anticipated that the Examiner in the normal course of examination, will make an independent search and will determine the best prior art consistent with 37 CFR §§ 1.104(a) and 1.106(b), and in the course of such search will review for relevance every document cited on the attached form even if not initialed.

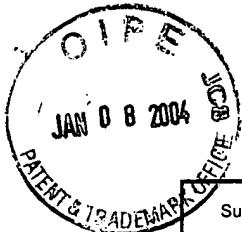
The Examiner is requested to consider the references referred hereto and initial the enclosed form PTO/SB/08 where indicated.

Early and favorable consideration is earnestly solicited.

Dated: January 8, 2004

Respectfully submitted,

By Sandra Lee  
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PTO/SB/08a/b (06-03)

Approved for use through 07/31/2003. OMB 0651-0031

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Substitute for form 1449A/B/PTO					
				Application Number	10/729,869
				Filing Date	December 5, 2003
				First Named Inventor	Fred Mermelstein
				Art Unit	N/A
				Examiner Name	Not Yet Assigned
Sheet	1	of	2	Attorney Docket Number	02521/100K106-US1

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
1.	US-5,543,434			Weg	
2.	US-6,248,789			Weg	
3.	US-5,654,281			Mayer	
4.	US-5,352,683			Mayer	
5.	US-5,834,465			Olney	

FOREIGN PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)			
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

NON PATENT LITERATURE DOCUMENTS					
Examiner Initials	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.			T <sup>2</sup>
6.	Ahuja, Br. J. Anaesth. 1983, 55:991				
7.	Battacharya et al., Ann. Acad. Med. Singapore 1994, 23:456				
8.	Bookwalter, Plastic Surg. Nursing 1994, 14:43				
9.	Brock-Utne et al., S.A. Med. J. 1982, 20:440				
10.	Clark and Kalan, J. Pain Symptom. Manage. 1995, 10:310				
11.	Collingridge et al., The NMDA Receptor, Oxford University Press, 1994				
12.	Dich-Nielsen et al., Acta Anaesthesiol. Scand. 1992, 36:583				
13.	Eide et al. Pain 1994, 58:347				
14.	Errando et al. Reg. Anesth and Pain Med. 1999, 24:136				
15.	Fine, J. Pain Symptom Manage. 1999, 17:296				
16.	Fix et al, Experimental Neurology 1993, 123:204-215				
17.	Fix et al., Toxicol. Pathol. 1996, 24:291-304				

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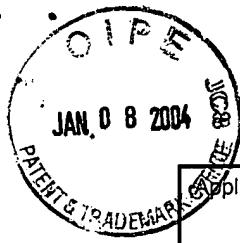
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				Art Unit	N/A
				Examiner Name	Not Yet Assigned
Sheet	2	of	2	Attorney Docket Number	02521/100K106-US1

18.	Foster et al., Nature 1987, 329:395-396
19.	Gebhardt, Anaesthetist 1994, 43 (suppl.2):S34
20.	Gurnani et al., Anaesth. Intens. Care 1996, 24:32
21.	Hirlinger and Pfenninger, Anaesthsist 1987, 36:140
22.	Humphries e al., J. Burn Care Rehabil. 1997, 18:34
23.	Jevtic-Todorovic et al., Brain Res 2001, 895:264
24.	Karpinski et al., Pain 1997, 73:103
25.	Kuboyama et al., J. Toxicol. Sci. 1997, 22:153
26.	Lauretti et al., Anesthesiology 1999, 90:1528
27.	Malinovsky et al., Anesthesiology 1991, 75:91
28.	Malinovsky et al., Anesthesiology 1993, 78:109
29.	Mathisen et al., Pain 1995, 61:215
30.	Mayer et al., Trends in Pharmacol. Sci. 1990, 11:254-260
31.	Mercadante et al., J. Pain Symptom Manage. 1995, 10:564
32.	Naguib et al., Can. Anaesth. Soc. J. 1986, 33:16
33.	Olney et al., Science 1989, 244:1360
34.	Shahar et al., Neurochem. Res. 1989, 14:1017
35.	Wlaz et al., Eur. J. Neurosci 1994; 6:1710-1719
36.	Knox et al., Anaesth Intens Care 1995, 23:620-622

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<sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>Applicant is to place a check mark here if English language Translation is attached.

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Application No. (if known): 10/729,869

Attorney Docket No.: 02521/100K106-US1

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